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No. 99-2040 (2)

In The
UNITED STATES SUPREME COURT
AMERICA

October Term, 1999

In Re Dr. Eileen Vey

☆☆☆NEW MATTERS☆☆☆

Habeas Corpus
Supplement

Rules 17.5, 12.4, 10
Mandamus/Prohibition
HABEAS CORPUS EXPEDITION REQUESTED

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16 pp

QUESTION PRESENTED

Should the U.S. Supreme Court grant a Pennsylvania Prima Facie Habeas Corpus submitted "under color of state PCRA", which is still in 16 years state litigation, because the verdict was against the weight of evidence and the state record proves INSUFFICIENT EVIDENCE, to end matter thereof?

PARTIES INVOLVED

The parties involved with Prima Facie Habeas Corpus issue of Writ are Dr. Eileen Vey, Allegheny County D.A., and Judge Bigley of Common Pleas Court of Allegheny County Pittsburgh, PA.

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NOTE: Dr. or Mrs. Eileen Vey = "Vey"; Husband Eugene Vey = Deceased or was he?; TT = Trial Transcripts; CIT= Coroner's Inquest Transcripts.

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No. 99-2040

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In Re: Dr. Eileen Vey

SUPPLEMENTAL HABEAS CORPUS

Mandamus/Prohibition

Habeas Corpus Expedition Requested

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The petitioner, Eileen Vey ("Vey"), hereby supplements case with Habeas Corpus particulars below and charges that she is being held a political prisoner, who is being deprived of state laws and demands that this priority be expedited first at time of deciding writs granting. (Presently Vey already involved with 16 year state litigation, in wheelchair, no lawyer.)

OPINIONS BELOW

No relief in the state court, where political prisoner under 16 years delays and denials of equal protection of laws. See jurisdiction.

JURISDICTION

Rules 17.5 and 12.4 as pertaining to state's Superior Court's relief delay by returning case during a Briefing to trial court for an IFP decision and state's Supreme Court returned Writs submitted there (no access, NEW matters, Rule 12.4).

STATEMENT OF CASE

Vey was aquitted of 1ST Degree Homocide and illegally convicted of 3RD Degree Homocide and Carrying a Firearm without a License and Sentenced to 18 years, after proving member in good standing with her community, while others received 5 years for 3RD.

This is another PCRA claiming rightful 16-year Prima Facie Habeas Corpus, of first instance at the Coroner's Inquest (1984), yet no one clarified or wanted to clarify that the case was in favor of Vey's innocence, not the state, and was further proven at the Trial. Since then, Vey has asserted prima facie in her behalf. One PCRA was in Trial Court 4 years, where Dr. Vey was abandoned by retired Judge Smith, D.A. and another state appointed lawyer and the list is too voluminous to go on here. There were many judges, state attorneys, but only until recently, same D.A.

Only until recently did she begin reading the state evidence of Coroner's Inquest Transcripts the end of December 1999 did she realize the extreme rape of her rights. The deceased went down before shots were heard and it was while white station wagon man was with deceased. Before this knowledge, she was denied four state defenses. Now for the first time only, while doing Briefing for the PA Superior Court, she was reading Trial Transcripts, instead of bits and pieces, because it was too traumatic for her, as she has had only incompetent or collusional lawyers, who abandoned her. All this is new data and according to the state record transcripts, the bazaar story of injustice is as follows:

KIDNAPPED!

Eugene Vey, the alleged deceased, was on the 9TH Street Bridge, when a gang of men stationed at all angles of the bridge ambushed him or them. The story goes that there was a woman with him and who was supposed to be shooting a 32 gun (which makes loud noise), but the deceased went down without a noise (silencer) by what may have been the white station wagon man, who was also at same place as deceased. The truck man said the deceased went down while the white wagon man was at the same place where the woman and deceased were, but he heard no noise of a 32 gun. Also, after deceased went down there were noises made that never sounded like shots, but backfiring, or maybe fireworks. The truck man said he was going to help

woman, who appeared to be in trouble. The white wagon man said he chased the woman up an alley of Garrison Way, but the two witnesses in alley never saw this woman in Garrison. This same gang of men were all over the deceased, tampered with brown bag and entire scene, etc. There was a man tampering with body with a turtleneck collar, who totally eluded the scene from any suspicion. All this occurred at a very suspect time, that is, a gang of men at a Pittsburgh city bridge at 8AM on Saturday morning, when the city was dead in 1984. (CIT 6, 7; TT 40).

Later, there were two women seen that morning dressed similar, however, Mrs. Vey or Vey was the only woman arrested. It was 8:40 AM at William Penn Hotel or after walking out with a purse filled with clothes, which would have covered any 32 gun in Vey's purse, that the police seized her purse by tearing it off her shoulder. Vey, who according to record was in somewhat of a haze, probably did not understand why someone was stealing her purse, then telling her she was under arrest, because she was suffering amnesia at time. Since she did not understand what was happening, upon first instant of arrest, Vey made it clear she wanted a lawyer (specifying Thomas Livingston, City Councilman Bob Stone's partner), she wanted to remain silent, she was suffering amnesia (PTSD or "Battered Wife Syndrome"). She was "hot to the touch," which Vey discovered recently is not a heat stroke, because a person is cold to the touch; however, Vey obviously was suffering a serious medical condition, amensia (TT 61, Vey had child) and later the story shows pain (TT 106).

The gun was illegally obtained, because it was impossible to feel imprint of gun which was in clothes filled purse; also believed possibly purse ripped off Vey's shoulder with no probable cause as for that situation, since there was another woman suspect not apprehended. At first instant of arrest, MIRANDA, LAWYER, SEIZURE, MEDICAL VIOLATIONS involved, because Mrs. Vey never fit the description of the woman they were seeking (See below, TT 61-65).

The description of the woman for whom they were looking was a medium built woman in shorts wearing a bandana. Vey is tiny size 5 and occasionally 3, and was wearing hair (If I may) according to detective at #1 station in 1984 and the list goes on and on as below will show:

NO STATEMENT AND TORTURE

The only evidence that was used against Vey at a non-jury

trial was an obvious fabricated statement by a detective. This detective claimed Vey made a statement that she was on the bridge, yet this alleged statement was not only refuted by other police and MD, but was illegally obtained under torture. That is:

1) SUCH A STATEMENT WOULD HAVE BEEN ILLEGALLY OBTAINED UNDER TORTURE AND FEDERAL VIOLATIONS Vey upon first instant said she wanted to remain silent, she wanted lawyer, and she was suffering medical problems at time: pain (excedrin), amnesia, (TT 61 Vey had children, one: TT 53/16), hot to touch (TT 52), was kept for long hours without calling an ambulance, the lawyer she wanted (TT 50 & 63) ....(from 8:40AM to 1:11 PM) BUT THERE WAS NO STATEMENT, ONLY BRAINWASHING THAT VEY DID IT, as they brainwashed everyone else.

2) The detective did not have Vey's signature on his alleged statement. (TT 120-121) If someone gives a voluntary statement, then person would voluntarily sign it! (CIT 97)

3) Police testified Vey said she was suffering amnesia, did not remember, and she wanted to remain silent upon first instant of arrest at William Penn Hotel. Were these rights honored? (TT 61/19 silent; TT 63/21, 65 lawyer; TT 61, amnesia, Vey had children TT53/16)

4) Medical Doctor stated Vey was suffering amnesia (TT 314/10).

5) Medical Doctor stated she knew of no signed statement or document (TT 244; 261/3), only that statement that she was told by lawyer by detective.

6) Detective claimed he made a note, yet he could not produce it at Trial (no evidence) TT 114/14.

7) Detective had hi-tech equipment availability, that is audio taping, yet he said he had no audio tape of such statement at trial, no evidence, (TT 112-114).

8) Detective had video taping available for such taping, yet he had no video tape produced at Trial, no evidence (TT 112-114).

9) On the contrary, Vey made it clear she wanted to remain silent, she wanted a lawyer, she was having physical medical problems, yet no call to lawyer for her, no ambulance, etc. (TT 106, 108).

NO EVIDENCE TO LINK VEY TO BRIDGE
VEY NOT SHOOTER!

The story becomes even more legally bazaar, because THERE WAS NO EVIDENCE TO LINK VEY TO BRIDGE OR

SHOOTING, ON THE CONTRARY:

1) EXCULPATORY EVIDENCE THAT VEY WAS NOT SHOOTER: In this Prima Facie Habeas Corpus "under color of this PCRA petition", Vey submitted to the Trial Court CIT Pages 6 & 7, the evidence that proves she or woman was not the shooter. The truck man said he saw station wagon man at scene and man a woman at scene, and he saw deceased go down without any gun shots heard and seeing woman in trouble was going to help her (CIT 6 & 7 ATTACHED HERETO).

2) There was NO NOISE from a loud 32 gun at the TIME DECEASED WENT DOWN (TT 71, 72, 74, 77, 78, 79; CIT 6 & 7). Noise after deceased went down was decribed as possible car backfire or maybe it was fireworks.

3) Vey gun never had a balistic's test. See MaCabe testimony

4) Detective did a GUN POWDER TEST on Mrs.Vey, but it was never submitted at Coroner's Inquest, nor Trial, because she did not shoot a gun. Nutron activation test taken (:45 AM (TT 106, 60, 258).

5) The GUN: Just because spent casings were found in a gun, does not mean they are relevant to any particular time element. Supposing they were found a year later after used at a firing range? After looking at this trumped up case, Vey has no problem suspecting #1 station detectives of firing gun. The prints on gun were not submitted at court.

6) The GUN: Vey is being denied "exception clause" of PA statute 18 PA SCA § 6101(b). Vey was showing responsibility, by not leaving behind at former residence, where grandchildren to get hurt. Vey was living as transient at time on road, because husband, deceased, was running from police or authorities, as Lt. LeDonne described. Moreover, suffering PTSD.

7) Detective said with Vey entire except when left for kit and later excedrin, but did not call lawyer until 12:05 PM.

8) There was suppose to be pools of blood and if woman was on top of deceased, why was there NO EVIDENCE OF BLOOD on Vey, on shoes, clothes, etc. No evidence at Inquest or Trial. (TT 125 Detective took photo of Vey)

9) Vey was never IDENTIFIED as woman, who did not shoot gun or person: a) Vey was pointed out by detective to witness at #1 station interrogation room #222; b) Vey was denied a line-up ID; c) Vey was not the description of woman wanted, because woman was MEDIUM (CIT 7), BUT Vey is TINY size 5

(sometimes 3 then) and 5' 2½"; d) woman wanted had a bandana (CIT 30 & 32); e) detective said Vey had hair, no bandana (TT 77); others could
not identify Vey (CIT 25, TT 15); f) Vey pointed out in courtroom year later, while she conveniently sitting by lawyer...

10) Other woman never questioned (TT 60/25).

11) No toxologist at Inquest or Trial (CIT 15)

12) Detective said there was a sunglass len at bridge scene that he alleged was Vey's, yet it was not produced as evidence at trial and he admits that alleged len was not examined to be that of Vey's (TT 74). Moreover, Vey was wearing her tinted prescriptions in tact at # 1 detective station of 1984 (TT 74, 103). (Photo TT 125 shown in courtroom)

13) Detective said Vey had a knife, yet never produced it at Trial

14) There was attempt to lie about clothes in Vey's purse by detective, clothes that would have covered alleged gun (TT 107, 102, 103, 122).

15) There was suppose to be a pony tail holder at bridge scene, but never produced. Vey's hair too short for pony tail at time and it could have been a man's: men wear pony tails (TT)

16) Brown bag tampering by men gang (CIT 44).

17) Denied evidence (TT 71-102).

18) All Vey knew was what police told her, dreams.. (TT 267/6).

19) The evidence of the attached telegram from the deceased to Dr. Eileen Vey proves that he chased Vey even when she was in Louisiana at Baptist Christian College and University. Also note his address on telegram (Exhibit 4), telling her he loves her.

20) The evidence of the attached love letter signed by deceased to Eileen states, "All the hatred (his) went away....I can not visualize a day without having you near or not hearing your voice..." (Exhibit 5)

21) It is totally irrational for any intelligent mind to believe the deceased son's statement that deceased was not on the road as what ex-husband, Mr. Mushinsky, would permit anyone to stay after he clearly threw deceased out of his home and did not permit deceased ever to come to his house again, because 1) deceased wanted by law; 2) deceased attempted a homocide on Eileen Vey in his home; and 3) for destroying his property, when deceased booted door in to get to Vey, when she would not see him. The

son admits to chasing her also with his calls, which he attempts to rationalize with the court. (See Mushinsky TT)

22) Kangeroo Court witnesses (Credibilty): As shown above and a) the Trial D.A. became a witness at trial against Vey on someone else's alleged behalf, without Vey facing person at trial (TT 277) ; b) Lt LeDonne was clearly aiding and abetting fugitive from justice (TT 278) and said he saw Vey year prior to arrest at hospital, while medical record shows she was being treated in ER (TT 283, 288, 293, 294).

23) Vey had no jury: she had a black judge at time black men were getting more time than whites. Considering everyingthing in case racial prejudice is also suspect. Vey proved good member in comunity standing yet she received 18 years, while others 5 years for 3rd Degree. (Lawyer incompetency)

24) Vey was denied state defenses for which she qualified.

25) Vey was identified in a courtroom, where she was obviously sitting next to a lawyer; yet she looked completely different at trial a year after bridge tragedy.

26) Vey denied "equal protection" of Stonehouse relief in previous and this PCRA.

GANG AMBUSH

1) There was a gang of men at all angles at the bridge at time deceased went down (CIT 41), when the deceased went down with an alleged silencer: no 32 noise (CIT 6 & 7).

2) Deceased was having problems with Union workers at time, threats, always carried weapons, etc. (TT 174-177) and wanted by FBI, tax, what (TT 290/17)?

3) Deceased close Union friend "Joe" was working at #1 police station 1984 with same detectives involved herein. Vey saw him hide when she went for gun charge at #1 station week later..

4) Deceased body was burned immediately, no evidence.

5) There was another woman seen same time of incident or alleged shooting (TT 60/25).

6) Union related matter?

7) White wagon man had great expertise testimony re guns for a person " just happened along" on a 1984 8AM Sat morning.

THE LAW

THE LAW concerning PRIMA FACIE: Courts use the concept of "prima facie" case in two senses: (1) in sense of plaintiff producing evidence sufficient to render reasonable a

conclusion in favor of allegation she asserts; and (2) in sense that, not only the palintiff's evidence would reasonable allow conclusion plaintiff seeks, but also that plaintiff's evidence compels such a conclusion, if the defendants produce no evidence to rebut it, **Husbands v. Com of PA**, D.C. of PA, 395 FS 1107, 1139.

PRIMA FACIE EVIDENCE is evidence good and sufficient on its face and such evidence which, in the judgment of the law, is sufficient to establish a given fact. Moreover, prima facie evidence is evidence which, if unexplained or uncontradicted, is sufficient to sustain a judgment in favor of the issue which it supports. State v. Haremza, 213 Kan. 201, 512 P.2d

ANOTHER STATE LAW DELAY GUISE
CRITERION OF WHICH VEY MET:

42 PA SC § 9545(b)(1) "Any petition this subchapter, including a second or subsequent petition shall be filed within one year of the date the judgment becomes final, unless petition alleges and the petition proves that:

"(i) failure to raise the claims previously was the result of inteference by government officials with the presentation of the claim in violation of the PA Constitution or laws of this Commonwealth or the Constitution of the United States;"

"(ii) the facts upon which the claim is predicated were unknown to the petitioner and could not have been ascertained by the exercise of due diligence; or"

Vey had right to competent lawyer; the record shows gross incompetency, conflict of inerest (see below). The U.S. SUPREME COURT Cuyler v. Sullivan, ineffective xounsel is shown 1) conflict or interest (ex-D.A. was Vey's lawyer); 2) conflict had adverse effect. Vey had right to effective counsel, U.S. SUPREME COURT'S, Williams v. Taylor (2000), 529 US ____; 120 SCt 1495 (2000); 146 LEd 2d 389 (2000). Lack of diligence without counsel, Keeney v. Tamayo-Rayes (1992) 504 US 1; Murray v. Carrier 477 US 478, 490, 492.

"(iii) the right asserted is a constitutional right that was reccgnized by the Supreme Court of the United States o: the Supreme Court of PA after the time period provided in this section and has been held by that court to apply retroactively."

The U.S. SUPREME COURT, Fiore v. White (1999), 119 SCt.1332, In reference to Post Conviction Relief, "state courts has a Constitutional obligation to apply their decisions retroactively."

The U.S. SUPREME COURT in Hopins v. Newman (2000) 67 CrLR 4 (99-1401) "Standard for granting relief: harmless error."

The U.S. SUPREME COURT, when there is a miscarriage of justice, which shows ineffective counsel, relief should be granted. Edwards v. Carpenter (2000) 529 US ___; 146 LEd 518, 120 SCt __.

The trial court erred tremendously. Vey's petition and responses shows voluminous reasons for addressing the merits and its compliance with statute to which the court refers.

The appellant, Vey, met the criterion of which the trial court cites THREEFOLD:.

I. INTERFERENCE BY GOVERNMENT OFFICIALS 16 YEARS:

You can not prosecute a person without being government officials. The entire 16 years record of Vey's case proves there has been interference by government officials, because Vey has yet to receive rightful relief even though the facts of entire state record, CORONER'S INQUEST TRANSCRIPTS (ommitted as evidence), and Vey's petition and Brief here prove she is not shooter, nor is there any evidence to link her to Bridge. The is further proves that at no time was this case ever treated professionally as a homocide case. Except for the Coroner's Inquest all attornies were state official appointed. The Coroner's Inquest attorney was referred by the police, which attorney was suppose to be a professor at law, yet the fact case was never treated as a homocide case, it is suspect. When Vey could not afford him after that, a Public Defender was appointed, who is now in a law partnership with the same D.A., who tried Vey's case. The state official appointed attorney after the PD, was an ex-D.A., an obvious conflict of interest, who was trial lawyer. Another state official appointed attorney was hired for a previous PCRA, who abandoned her and the trial court judge retired and left her PCRA in limbo 4 years! Biased ineffective attornies appointed by state officials. Indeed, government interference without a doubt! Furthermore, know that this statute violates "DUE PROCESS," "SUSPENSION CLAUSE" OF Article I § 9(2), etc., especially for those with Vey's situation (legislators' illegal laws interference.) As Vey stated in her litigation herein, a PCRA IS A HABEAS CORPUS.

II. 16 YEARS DUE DILIGENCE NEVER APPLIED TO VEY'S CASE BY STATE OFFICIAL APPOINTED BIASED INNEFFECTIVE ATTORNIES: the record shows Vey was

suffering "Battered Wife Syndrome", which made it too traumatic to read transcripts, as even recently, when she read newly discovered Inquest and Trial data. Vey depended on the lawyers. The U.S. Constitution GIVES RIGHT TO COMPETENT, UNBIASED, NO CONFLICT OF INTEREST, COUNSEL. Because state official appointed lawyers, NEVER DID VEY HAVE A LAWYER competent and acting in her behalf, never was there the "exercise of due diligence," never was Vey's case treated professionally as a homocide case, even newspaper was used to prejudice Vey with police statement that she was coldblooded, then case was kept quiet (case stinks), until small article on verdict. Again, there is no evidence that places defendant at the Bridge and initial evidence of CIT proves she is not the shooter.

III. UNTIMELINESS OF U.S. CONSTITUTIONAL (ETC) RIGHTS: The voluminous rape of rights shown in brief, petition, etc.. are rights that are untimely. Vey has met the statues exceptions threefold in PCRA!

Article I § 9(2): nonsuspension of writ of habeas corpus

Amendment 1: right to petition Government for redress of grievances, kidnapped

Amendment 2: right of people to keep & bear arms

Amendment 4: unreasonable search & seizure

Amendment 5: double jeopardy violations

Amendment 6: a) right to speed; b) right to keep silence without any interference; c) right not to testify against self; d) right to competent counsel

Amendment 8: a) excessive bails illegal; b) cruel & unusual punishment during arrest and custody at #1 station

Amendment 9: right to U.S. Constitution

Amendment 14: right to "equal protection" of all laws, privileges, etc., DUE PROCESS

CONCLUSION

WHEREFORE, the defendant requests that this 16-year Prima Facie Habeas Corpus be granted, charges be dropped against her and her record cleared due to INSUFFICIENT EVIDENCE, which exceeds far beyond "reasonable doubt."

Respectfully submitted,

CC: Judge Bigley
D.A., Mike Streilly.

Dr. Eileen Vey, Th.D.

Appendix 1

The Superior Court of Pennsylvania
Office of the Prothonotary
1015 Grant Building
Pittsburgh, Pennsylvania 15219

David A. Szewczak, Esquire
Prothonotary
Eleanor R. Valecko
Deputy Prothonotary

(412) 565-7592

August 17, 2000

Ms. Eileen Vey
804 Cedar Avenue
Pittsbsurgh, PA 15212

IN RE: COMMONWEALTH OF PA VS EILEEN VEY
NO. 517 WDA 2000

Dear Ms. Vey:

The court has entered the following order on your Motion to Submit Coroner's Inquest Transcript and Motion to Proceed Informa Pauperis filed in the above captiond matter.

"ORDER OF COURT

Upon consideration of the Motion to Submit Coroner's Inquest Transcript and Motion to Proceed In Forma Pauperis, as these motions were filed in the trial court at the time of the notice of appeal, was filed but were not disposed of by the trial court, the record is remanded to the trial court to enable that court to dispose of the motions.

DATE: August 17, 2000

PER CURIAM"

A certified copy of the above order will be sent to the court below.

Very Truly yours,
DEPUTY PROTHONOTARY

ERV/ksj
Cc. Michael Streily, Esquire
Honorable Gerard Bigley